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ABSTRACT

This document is intended to provide educators with guidance and strategies to increase the participation of families from diverse backgrounds in mediation programs to settle differences about educational programs for children with disabilities. Introductory information discusses what mediation is, who mediators are, a typical mediation process, and the relationship of education to culture. The document then presents 52 specific strategies organized into four categories: (1) policies and systems (e.g., adopt a policy that mediation services must be sensitive to cultural, linguistic and class differences); (2) education and outreach (e.g., involve families, parent training centers and advocacy groups in the development and distribution of education and outreach materials); (3) mediation procedures and processes (e.g., give preference to multilingual and culturally competent intake coordinators); and (4) mediators and practitioners (e.g., ensure that mediators and educators are aware that some individuals and families do not welcome the involvement of government or other agencies in personal or family affairs). The paper concludes that use of these strategies demonstrates a commitment to equal access, mutual respect, and basic human rights. An annotated list of organizational resources and recommended reading is attached. An appendix presents the regulatory provision for mediation under IDEA '97 (Individuals with Disabilities Education Act Amendments 1997). (DB)

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Keys to Access

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Helping Parents and Educators Create Solutions That Improve Results for Students with Disabilities

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CADRE's core partners are:

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www.mediate.com/

National Association of State Directors of Special Education (NASDSE)
www.nasdse.org/home.htm

The National Information Center for Children and Youth with Disabilities (NICHCY)
www.nichcy.org

The Technical Assistance Alliance for Parent Centers (The Alliance)
www.taalliance.org

Western Oregon University—Teaching Research
www.tr.wou.edu/

Western Regional Resource Center
Center on Human Development
University of Oregon
http://interact.uoregon.edu/wrrc/wrrc.html

CADRE staff and its partner organizations look forward to hearing how you were able to use Keys to Access in your efforts to provide mediation services to all families and educators.

Keys to Access

Encouraging the Use of Mediation by Families from Diverse Backgrounds

School systems and families sometimes have different perspectives about the education of children with disabilities. When a family files for a due process hearing, the Individuals with Disabilities Act (IDEA), Amendments of 1997 [P.L. 105-17] requires state departments of education to provide access to mediation to help resolve these differences. For some families mediation is a viable and relatively easily understood process. For many families, however, mediation is an unknown process and may seem inaccessible or unattractive.

It is generally understood that families who use procedural safeguards to resolve educational disputes are typically highly educated and from middle or upper class backgrounds. Individuals who are monolingual in a language other than English or who speak English as a second language, who identify with a culture different from mainstream American society, or who are from socio-economically disadvantaged backgrounds may not recognize mediation as an appropriate and available process for help.

There are a number of reasons for making mediation more accessible and responsive to families from culturally, economically and linguistically diverse backgrounds. When disagreements are resolved collaboratively, they result in stronger communities, better relationships between educators, service providers and families, and improved outcomes for children and youth. Conversely, when individuals and communities do not have opportunities to express dissatisfaction early and in a welcoming setting, school systems risk complaints, lawsuits and allegations of racism, in addition to challenges to Individual Educational Programs (IEPs).

Ever-changing demographics challenge educators to provide inclusive and culturally relevant services to diverse populations of students and families. It is projected that 40 percent of clients in service delivery systems will be minority group members by the year 2000 (Cross, et al., 1989). School districts and boards of education may not be aware of the barriers that stand in the way for families nor the strategies that can open the doors to mediation. This document is intended to provide educators with guidance that may help them understand why some families may not participate in mediation, and strategies for increasing the participation of families from diverse backgrounds.

Most importantly, *Keys to Access* offers practical recommendations that school personnel, early intervention service providers, mediation providers, and families can use to develop the knowledge, positive attitudes, skills and strengths necessary for genuine collaboration. The results of these collaborative partnerships may be reflected in improved programs for children with disabilities.

What is Mediation and Who are the Mediators? *

Generally, mediation is a flexible and informal process in which a third party intervenor assists individuals (or organizations, groups, institutions, etc.) to resolve a conflict. Whether addressing a civil court case, family matter, special education disagreement or any other kind of dispute, mediation is conducted primarily as a problem-solving process (Moore, 1986; Folberg and Taylor, 1984). It is managed by a person trained to facilitate discussions of each participant's issues and usually involves meeting together face-to-face with the individuals who have a disagreement, and/or their representatives. The goal is to create an agreement that resolves differences and enhances the relationship between the disputants. Generally, mediators are viewed as free of bias or partiality in relation to the participants and resolution of the dispute. A mediator does not make decisions regarding the outcome of the matter; the participants do.

Mediators usually follow a process that is less formal than due process hearings and has certain key features. The following mediation process is a typical one in mainstream U.S. society.

A Typical Mediation Process

- **Mediator introductions/opening remarks**
  Mediators describe the procedure and request a commitment from all the participants to adhere to the ground rules (e.g., one person speaks at a time, confidentiality is maintained, participants engage in respectful communication)
- **Participants opening remarks**
- **Identification of topics for discussion**
- **Clarification of interests**
  The mediator may assist everyone in being open to new alternatives, in considering the realities of implementing potential solutions and in creating the type of agreement that meets everyone's needs.
- **Generation and evaluation of options**
- **Identification of mutually acceptable options**
- **Writing of Agreement**

** It is important to note that "mediation" as described in this paper refers to the generic process of mediation. The content of this paper is not intended to be interpretive of the mediation requirements under IDEA and does not reflect official policy of the United States Department of Education or the Office of Special Education Programs. For the reader's benefit, the main regulatory provisions for mediation contained in IDEA '97 are attached as Appendix A.*

Mediation as an alternative to litigation has grown significantly in the United States since the 1960's (McGillis, 1997). It has been shown to be effective and satisfying in many ways.

> *Mediation as a process for resolving disputes has resulted in economical decisions; faster settlements; mutually satisfactory outcomes; high rates of compliance; comprehensive and customized agreements; greater degree of control and predictability of outcomes for participants; personal empowerment; preservation of an ongoing relationship; workable and implementable decisions; agreements that are better than simple compromises or win/lose outcomes; and decisions that hold up over time. (Rogers and McEwen, 1994).*

However, the typical mediation model is not a familiar process for much of the public, especially to those not part of the mainstream culture. Any activity, institution, or process that is strange, new, or unknown is much less likely to be used than one that is familiar and customary.

Mediation is often assumed to be culturally neutral and applicable across contexts. In fact, any conflict resolution process is embedded with culture. The "typical" mediation model is founded on implicit cultural assumptions that are often invisible to the mediator or mediators and any participants who share that culture. They may be foreign or even counterproductive in a different context or with those who do not share those cultural assumptions (Lederach, 1995). The process can and should be adapted to be appropriate and responsive to all the participants in a particular mediation.

Education and Culture

Each of us has a culture which affects how we relate and respond to events. Cultural expectations and life experiences influence our interpretation of what is or is not an inter-personal or inter-group conflict, and the selection of an appropriate way to handle disagreements. The educational system in the United States serves people from innumerable cultures, differing socio-economic backgrounds and diverse life circumstances and, hence, is challenged to acknowledge, respect, and provide for cultural differences.

A culturally competent system is staffed by people whose behaviors, attitudes, and policies recognize, respect, and value the uniqueness of individuals and groups whose cultures are different from those associated with mainstream American culture. These populations are frequently identified as being made up of people of color, such as Americans of African, Hispanic, Asian and Native American descent. Cultural competence can be developed by mediators of any background, but will be enhanced by the presence of members of diverse ethnic groups, who can provide first-hand understanding of the issues involved in cross-cultural mediation. Cultural competence improves services to everyone, because each person has a culture and is part of several subcultures, including those related to gender, age, income level, geographic region, sexual orientation, religion, and physical ability (Cross, et al., 1989).

If school systems are going to meet the increasing challenge to implement culturally competent systems of services, they must include collaborative dispute resolution strategies that respect diverse methods of handling conflicts. In particular, the goal must be to provide the type of mediation services which will be truly acceptable to all people and, therefore, accessible. This entails making mediation both a known entity and a process with sufficient flexibility to respect diverse customs and preferences for how conflicts are defined and handled. Policy makers, administrators, early intervention service providers, teachers and mediators are urged to consider the following Keys and use them as informal tools for assessing the extent to which their system welcomes or discourages broad utilization.

For systems that fall short, as almost all will, these Keys represent opportunities for improvement. They can help create mediation services that are not only responsive and relevant, but also the preferred process for creating partnerships between families and schools.

Policies & Systems

The following strategies might be implemented by State Education Agencies (SEAs) and Local Education Agencies (LEAs) to address policy and system design issues.

Adopt a policy that mediation services must be sensitive to cultural, linguistic and class differences.

Design a system that includes bilingual and bicultural mediators, cultural interpreters, and mediators who represent the diversity of the community.

Encourage inter-district collaboration in the development, implementation and maintenance of local mediation service systems that are sensitive to cultural, linguistic and class differences.

Insist on appropriate training and experience as evidence of cultural competence when contracting for mediation services.

Work collaboratively with parent training and advocacy groups to overcome barriers they identify in their communities.

Promote collaboration among mediators, mediation service administrators, SEAs and LEAs in the design and implementation of policies, procedures and processes.

Develop policies that allow extended family members, friends and advocates to support families participating in mediation.

Adopt a policy that permits lengthy or multiple mediation sessions when needed.

Develop policies and procedures that encourage follow-up to mediations in order to observe and assist with progress.

Develop mechanisms for addressing system-based issues that are raised in individual mediations.

Conduct an evaluation that compares the use of mediation services to demographic characteristics of all potential users system-wide.

Education & Outreach

The following strategies might be implemented by SEAs, LEAs, program managers and others responsible for educating community members about the availability of mediation services and promoting the use of mediation in their communities.

Involve families, parent training centers and advocacy groups in the development and distribution of education and outreach materials.

Use appropriate formal and informal channels (e.g., religious organizations, neighbor and relative networks, healers, clergy, community and civic leaders) to promote the use of mediation.

Create educational and promotional materials about mediation in a variety of media (e.g., posters, brochures, audio, video). Produce materials in formats that are accessible to all individuals, including those with sensory impairments, non-English speakers and non-readers.

Address the unique needs of particular communities when developing and distributing education and outreach materials.

Distribute public service announcements (PSAs) throughout the year, with particular attention to media that reaches under-served populations.

Involve community leaders in education and outreach efforts that inform communities of the availability and potential benefits of mediation. Help them understand the process and involve them in jointly educating others through outreach materials, community presentations, workshops and other activities.

Provide entertaining (e.g., skits, videos, etc.) programs demonstrating what mediation is and is not, with question and answer and role-playing opportunities.

Approach local and state ethnic commissions, professional organizations (i.e., bilingual, migrant, TESOL, etc), and dispute resolution centers about conducting appropriate outreach activities.

Mobilize interpreters from local translation services, the Red Cross, universities, and state agencies with language banks to assist with outreach activities.

Attend ethnic commission meetings, parent advisory committees, and other community groups in order to become familiar with their purpose, share information, and build relationships.

Attend cultural events and meetings of community leaders in order to experience how members interact and see their values in action. Observing leaders at work will help identify potential key informants and advisors.

Assist community elders and other well-respected community members with understanding the mediation process and involve them in identifying the adjustments needed to make the mediation process appropriate and relevant.

Invite mediators to meet with families and educators in an informal social gathering to get acquainted

Mediation Procedures & Process

The following strategies might be implemented by program managers and intake coordinators to help ensure that case management and service delivery is responsive to the unique needs of individual participants.

Develop intake and case development procedures that are flexible and respond to a broad spectrum of cultural, linguistic and class differences. It is particularly important that intake procedures be personalized to individual families and not tailored only to stereotypical expectations.

Give preference to multilingual and culturally competent intake coordinators.

Consider conducting case development in a familiar environment. Some families and educators may prefer to meet in a comfortable location such as their home or workplace.

28 Request that mediators acknowledge cultural, linguistic and class differences when conducting intake, making preparations, setting up and conducting the mediation process.

29 Approach intake as an opportunity to identify and assess cultural or linguistic issues that may be contributing to the disagreement.

30 Consider and explore the diversity that exists within any culture. Understand the level of the family's assimilation or acculturation.

31 Recruit mediators from local embassies, language banks, translation agencies, professional and community organizations.

32 Contract with mediation trainers who integrate diversity throughout their training and in-service curricula.

33 Provide training to staff in cross-cultural and inter-cultural communication and conflict resolution.

34 Choose a location that is easily accessible and perceived as neutral, safe and comfortable for all participants.

35 Ensure that mediation sessions are available on weekends and evenings, if necessary, for full family participation.

36 Provide basic logistical assistance (e.g., babysitters, transportation, etc).

37 Recommend that mediators and participants jointly design and use a flexible process that is considered by all involved to be fair.

Mediators & Practitioners

The following strategies can be implemented by program managers and mediators to help ensure that mediation sessions are conducted in a fashion that is responsive to the unique needs of individual participants.

38 Ensure that mediators and educators are aware that some individuals and families do not welcome the involvement of government or other agencies in personal or family affairs.

39 Ensure that mediators understand that some cultures defer to professionals (educators, administrators, therapists, consultants, mediators, etc.) as experts and do not deem it appropriate for a lay person to question or challenge the actions or decisions of professionals.

40 Ensure that mediators and educators are aware that families might not understand mainstream Western beliefs about "parent-educator partnerships." Some parents may not know or understand that they are encouraged to share their needs and desires for their children with school staff.

41 Ensure that mediators and educators understand the role of age, gender and other individual differences that affect or define status, relationships and socially acceptable behavior within the family and larger community.

42 Provide ongoing training and support for all mediators in diversity, cultural competence, flexibility, and the design of processes that are culturally relevant and appropriate to all participants.

43 Ensure that interpreter training includes the critical element of translating in a neutral manner, and that interpreters understand the importance of impartial translation and assistance.

44 Provide interpreters with a dictionary of disability and dispute resolution terms.

45 Modify mediation program materials and adjust the conflict resolution process to respond to the individual circumstances of participants.

46 Determine what method of communication (e.g., in-person, face-to-face, etc.) is most appropriate for a full understanding of the issues and concerns.

47 Be aware of personal biases and assumptions based on how a person dresses, speaks, acts, etc.

48 Insist that mediators have no perceived and/or real conflicts of interest.

Arrange the room and seat the participants in a manner appropriate to the participants and their relationships. Recognize the role that gender, age, social status and other characteristics have in defining the order and manner of speaking as well as socially appropriate lines of communication.

Permit joint and individual meetings as appropriate for saving face, venting, consultation with advisors, processing and understanding information, and evaluating options.

Recognize that many people do not communicate in a linear fashion nor "stick to the subject at hand." Much of what is relevant in a holistic worldview may seem unrelated from a linear, problem-solving perspective. Context is very important to the resolution of differences.

Avoid language or assumptions that perpetuate stereotypes.

Conclusion

The common reasons that some families offer for not using mediation services are their lack of understanding of mediation and anticipating the process will not accommodate their needs and preferences for a fair method of resolving conflicts (elicited from focus groups at ALLIANCE Leadership & Training Institute, Albuquerque, NM 1999). Asking families if there are particular ways the school can help is always a good idea. Though legal, economic, educational, and relationship benefits are likely results of inclusive access to special education mediation services, the ethical imperative of "doing the right thing" should not be forgotten. Inherent in the best of being human is the capacity to extend oneself, not out of charity or because of mandates. Using the strategies in *Keys to Access* gives us a concrete opportunity to demonstrate a commitment to equal access, mutual respect, and basic human rights. The *Keys* presented in this document are as much about opening up oneself, as they are about opening the mediation conference room to those who are traditionally underrepresented or disenfranchised.

It is CADRE's hope that *Keys to Access* will provide support and guidance in the process of identifying and utilizing culturally appropriate methods of engaging, serving and responding to conflicts. It is CADRE's belief that these strategies will help schools create mediation systems that are not only acceptable and relevant, but also the preferred process for creating partnerships between families and service providers or educators serving children and youth with disabilities.

References

Cross, T. , Bazron, B., Dennis, K., & Isaacs, M. (1989). Towards a culturally competent system of care (Vol. I). Washington, DC: CASSP Technical Assistance Center, Georgetown University Child Development Center.

Folberg, J., & Taylor, A. (1984). A comprehensive guide to resolving conflict without litigation. San Francisco: Jossey-Bass.

Lederach, J.P. (1995). Preparing for peace: Conflict transformation across cultures. Syracuse, NY: Syracuse University Press.

McGillis, D. (1997). Community mediation programs: Developments and challenges. Washington, DC: National Institute of Justice.

Moore, C. (1986) The Mediation process: Practical strategies for resolving conflict. San Francisco: Jossey-Bass.

Rogers, N., & McEwen,C. (1994). Mediation, law and policy (2nd ed.). Eagan, MN: Clark Boardman Callaghan.

Resources

The following list includes organizational resources available to those seeking to learn more about cultural differences, acquire training materials, or speak to experts in the area of program design and service delivery.

Community Boards
1540 Market Street, #490
San Francisco, CA 94102
415-552-1250
www.mediate.com/cbp
This community mediation program helped pioneer the use of multiethnic conciliation boards. Their case development procedures include the use of "gatekeepers" as outreach contacts for different ethnic communities. Their intervention model is very adaptable and they have developed Spanish language materials. In 1995, Community Boards trained educators, parents, advocates, and social service providers to use conciliation panels for resolving special education disputes.

Diversity Committee—ABA Section on Dispute Resolution
American Bar Association
740 15th St. NW
Washington, DC 20005-1009
202-662-1680
202-662-1683
dispute@abanet.org
www.abanet.org/dispute/home.html
The Diversity Committee provides information and technical assistance on the full spectrum of ADR processes. They conduct studies on existing methods for the prompt and effective resolution of disputes and help adapt current legal procedures to accommodate court-annexed and court-directed dispute resolution processes. The Section conducts public and professional education programs and supports the development of programmatic and legislative models.

Federal Mediation and Conciliation Service
2100 K Street, NW
Washington, D.C. 20427
202-606-8100
202-606-4216
www.fmcs.gov
This federal agency exists primarily to promote stable labor-management relations. It provides services and training on a variety of joint problem-solving approaches. Recently, the Service has expanded its efforts beyond the employment realm to include systems design as well as education, training and mentoring for government agencies, public institutions and state and local governments.

International Society for Intercultural Education, Training and Research—SIETAR
P.O. Box 467
Putney, Vermont 05346
802-387-4785
802-387-5783
SIETAR@sover.net
SIETAR is an association comprised of professionals from a wide range of disciplines who share a common concern for international and intercultural relations. SIETAR provides a unique opportunity for interaction with leaders in a wide range of professions who share an interest in intercultural practice and research. They also provide cultural awareness materials for conflict resolution training.

National Association For Community Mediation
1527 New Hampshire Avenue, NW
Washington, DC 20036-1206
202-667-9700
202-667-8629
nafcm@nafcm.org
www.nafcm.org/
NAFCM is a membership organization comprised of community mediation centers, their staff and volunteer mediators, and other individuals and organizations interested in the community mediation movement. It serves as a national clearinghouse of information on the development and practice of community mediation, and fosters communication and mutual assistance in such areas as training, funding, technology, and program and policy development.

National Coalition Building Institute
1835 K Street, N.W., Suite 715
Washington, DC 20006
202-785-9400
ncbiinc@aol.com
www.ncbi.org
NCBI is noted for its prejudice reduction workshops and efforts in service of multicultural coalition building.

National Institute for Urban School Improvement
Education Development Center, Inc.
55 Chapel Street
Newton, MA 02458-1060
urban_institute@edc.org
www.edc.org/urban/
NIUSI provides a forum for dialogue, networking, technology, action research, information systems, alliance and consensus building related to inclusive urban communities, schools, and families. The Institute also helps build capacity for sustainable and successful urban education.

National MultiCultural Institute
3000 Connecticut Avenue, NW, Suite 438
Washington, D.C. 20008-2556
202-483-0700
202-483-5233 fax
nmci@nmci.org
www.nmci.org
NMCI sponsors conferences and workshops on professional issues related to diversity, and produces educational resource materials for educators, trainers, mental health and social service professionals. These include manuals on the training of diversity trainers and health care professionals, books on a variety of cross-cultural issues and videos on cross-cultural mental health.

Neighborhood Justice Center of Honolulu
200 N. Vineyard Blvd., Suite A-320
Honolulu HI 96817-3938
808-521-6767
808-438-1454 fax
www.freeyellow.com:8080/members7/njc/
This community mediation program helped pioneer the development of cultural training modules for mediation training.

Recommended Reading

The following are readings recommended for those seeking to learn more about dispute resolution, mediation and cultural issues.

Books:

Augsburger, D. (1992). Conflict mediation across cultures: Pathways and patterns.
Louisville: Westminster/John Knox Publishers.
This book develops a general theory of cultural understanding of conflict. Each chapter in the book begins with folktales, usually from traditional societies, which illustrate the principles set forth in the chapter. These principles are cross-culturally derived and descriptive of various dispute resolution processes.

Duryea, M. (1992). Conflict and culture: A literature review and bibliography.
Victoria, B.C.: Institute for Dispute Resolution, University of Victoria.
This text provides an essay and a comprehensive bibliography on conflict and culture. The essay is an analysis of the problems of conflict within and between cultures and presents an agenda for the further development of dispute resolution in non-mainstream contexts. The bibliography is organized topically and draws on both alternative dispute resolution literature and the general literature on culture and society.

Duryea, M., & Grundison, B. (1993). Conflict and culture: Research in five communities in Vancouver, British Columbia.
Victoria, B.C.: Institute for Dispute Resolution, University of Victoria.
This publication chronicles and analyzes the results of field research, exploring attitudes toward conflict and conflict resolution as well as traditional and transitional ways of addressing conflict used by immigrants to British Columbia. The research reveals a close connection between how respondents from five communities perceive and experience conflicts, and problems related to settling in a new country. The research indicates that a range of processes are needed to accommodate cultural differences.

Fisher, R., & Ury, W. (1991). Getting to yes (2nd ed.).
Boston: Houghton Mifflin.
Getting To Yes is a bestseller that offers basic principles for negotiating mutually acceptable agreements.
The authors focus on interest-based negotiation as well as other components of their win-win principled bargaining method. Examples covering the range of disputes from inter-personal to international are highlighted.
Major issues of culture are not explored in this text.

Kritek, P. B. (1994). Negotiating at an uneven table: Developing moral courage in resolving our conflicts.
San Francisco: Jossey-Bass.
The book consists of chapters discussing the author's fundamental assumptions about balancing power, examining traditional approaches to dealing with the uneven table, and ways in which the table can be reframed. Ascribed and assumed characteristics, including gender and culture, and their impact on power imbalances are presented.

Lederach, J. P. (1995). Preparing for peace: Conflict transformation across cultures.
Syracuse: Syracuse University Press.
This book examines the concept of conflict transformation in the context of providing training in conflict resolution skills in cultures other than one's own. He distinguishes between prescriptive and elicitive models of training. The book is dedicated to setting out approaches to developing elicitive training and implementing it. The use of storytelling, role-plays, and trainee involvement in training design are examples of the approach.

Myers, S., & Filner, B. (1994). Mediation across cultures: A handbook about conflict and culture. Amherst: Amherst Educational Publishing.
This handbook focuses on how mediation and culture fit together. It discusses the dynamic nature of mediation as a conflict resolution process in which individuals from different cultures can find creative and workable solutions to disputes without giving up their own values and beliefs. The case studies were written primarily for mediators who are faced with intercultural disputes, and those not formally trained as mediators who work in multicultural settings and are interested in using mediation as a mechanism for resolving disputes.

Note:

Some of these annotations were derived from book reviews written by James Boskey and found in The Alternative Newsletter.

Articles, Guides & Working Papers

Barnes, B. (1994). Conflict resolution across cultures: A Hawaii perspective and a Pacific mediation model. Mediation Quarterly, 12.
This article reviews various consensual methods of conflict resolution—mediation, negotiation, and facilitation—and indigenous culture techniques capable of becoming culturally appropriate for disputes across cultures. Models of addressing multicultural disputes such as community boards, ethnic conciliation commissions, educational campaigns in sovereignty movements, and cross-cultural comediation are discussed from a Hawaii practitioner's perspective.

Barsky, A., Este, D., & Collins, D. (1996). Cultural competency in family mediation. Mediation Quarterly, 13.
This article discusses the need for mediators to learn about cultures other than their own. It explores ways mediators can enhance their ability to work with people from different cultures, using examples from Vietnamese, Pakistani and Ismaili communities.

Cross, T. , Bazron, B., Dennis, K., & Isaacs, M. (1989). Towards a culturally competent system of care (Vol. I). Washington, DC: CASSP Technical Assistance Center, Georgetown University Child Development Center.
This is a monograph on instituting effective social services for children from non-dominant cultures who have emotional/behavioral disorders. It provides strategies for implementing change at the policymaking, administrative, practitioner and consumer levels, and identifies service adaptations and planning activities for cultural competence.

Gadlin, H. (1994). Conflict resolution, cultural differences, and the culture of racism. Negotiation, 10 (J 33).
This is a theoretical article that focuses on race as both an issue and element of disputes. Included is a discussion on the limitations of associating certain conflict management approaches to particular groups. The author encourages examination of the mediator's role when disputes involve issues of race or ethnicity and recommends the use of multicultural teams of mediators.

Isaacs, M., & Benjamin, M. (1989). Towards a culturally competent system of care (Vol. II). Washington, DC: CASSP Technical Assistance Center, Georgetown University Child Development Center.
This document reviews the historical and demographic context of cultural awareness regarding children with emotional/behavioral disorders. It also examines social service programs that utilize culturally competent principles, the lessons learned from these program sites, and priorities for future activities.

LeResche, D. (1992). Comparison of the American mediation process with a Korean-American harmony restoration process. Mediation Quarterly, 9.
The mediation process used by community-based mediation centers in the United States is compared with the informal process for handling conflicts used by Korean-Americans. Significant differences and some commonalities between the two are presented and a framework for comparing conflict resolution procedures is provided.

Merry, S. (1987). Disputing without culture.
Harvard Law Review, 100.
This is a review of the book Dispute Resolution written by three law professors which is a "how-to" publication designed for law students and lawyers. The review author suggests the book would benefit from examining the ADR movement within the context of "social, cultural, and political dimensions". The review also explores the basic premises of ADR and the movement's inadequacy with regard to cultural conceptions of dispute processing.

Roizner, M. (1996). A practical guide for the assessment of cultural competence in children's mental health organizations.
Boston: Judge Baker Children's Center.
This article provides guidance and tools for organizations seeking to become more culturally competent. It includes issues and steps to consider when conducting an assessment; procedures for gathering assessment data; and reviews and examples of various self-assessment instruments.

Rubin, J., & Sander, F. (1991). Culture, negotiation, and the eye of the beholder.
Negotiation, 7 (J 249).
This brief article examines the stereotypes negotiators typically bring to the table about each other's negotiating orientation or style. The authors suggest the skilled negotiator will develop self-awareness regarding their own pre-dispositions, and acquire information about their counterparts as individuals beyond any identifiable cultural or group affiliation.

Appendix A

Main Regulatory Provision
for Mediation Under IDEA 97

Sec. 300.506 Mediation.

(a) General. Each public agency shall ensure that procedures are established and implemented to allow parties to disputes involving any matter described in Sec. 300.503(a)(1) to resolve the disputes through a mediation process that, at a minimum, must be available whenever a hearing is requested under Secs. 300.507 or 300.520-300.528.

(b) Requirements. The procedures must meet the following requirements:

(1) The procedures must ensure that the mediation process-- (i) Is voluntary on the part of the parties; (ii) Is not used to deny or delay a parent's right to a due process hearing under Sec. 300.507, or to deny any other rights afforded under Part B of the Act; and (iii) Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

(2)(i) The State shall maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services. (ii) If a mediator is not selected on a random (e.g., a rotation) basis from the list described in paragraph (b)(2)(i) of this section, both parties must be involved in selecting the mediator and agree with the selection of the individual who will mediate.

(3) The State shall bear the cost of the mediation process, including the costs of meetings described in paragraph (d) of this section.

(4) Each session in the mediation process must be scheduled in a timely manner and must be held in a location that is convenient to the parties to the dispute.

(5) An agreement reached by the parties to the dispute in the mediation process must be set forth in a written mediation agreement.

(6) Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings, and the parties to the mediation process may be required to sign a confidentiality pledge prior to the commencement of the process.

(c) Impartiality of mediator.

(1) An individual who serves as a mediator under this part--(i) May not be an employee of- (A) Any LEA or any State agency described under Sec. 300.194; or (B) An SEA that is providing direct services to a child who is the subject of the mediation process; and (ii) Must not have a personal or professional conflict of interest.

(2) A person who otherwise qualifies as a mediator is not an employee of an LEA or State agency described under Sec. 300.194 solely because he or she is paid by the agency to serve as a mediator.

(d) Meeting to encourage mediation.

(1) A public agency may establish procedures to require parents who elect not to use the mediation process to meet, at a time and location convenient to the parents, with a disinterested party--(i) Who is under contract with a parent training and information center or community parent resource center in the State established under section 682 or 683 of the Act, or an appropriate alternative dispute resolution entity and (ii) Who would explain the benefits of the mediation process, and encourage the parents to use the process.

(2) A public agency may not deny or delay a parent's right to a due process hearing under Sec. 300.507 if the parent fails to participate in the meeting described in paragraph (d)(1) of this section.

(Authority: 20 U.S.C. 1415(e))

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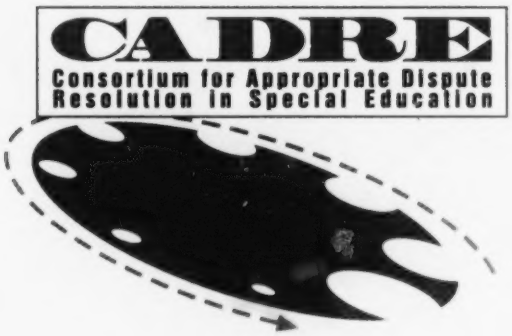

CADRE is funded by the United States Department of Education as the National Center on Dispute Resolution and Special Education.

CADRE leverages the experience of individual and organizational leaders to provide efficient, effective and high quality technical assistance. These affiliations include a unique blend of parents and professionals, expertise in technical assistance and extensive knowledge of dispute resolution practices.

CADRE builds its activities, products and services around the needs of state and local education and early intervention systems, parent centers, families and educators.

CADRE uses advanced communications technology and traditional strategies to:

- *Provide technical assistance on implementation of the mediation requirements under IDEA '97.*
- *Motivate parents, schools, and service providers to use appropriate dispute resolution processes.*
- *Stimulate and support efforts to resolve disputes early and effectively.*

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